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FISCAL IMPACT STATEMENT

LS 6413

BILL NUMBER: HB 1077

NOTE PREPARED: Dec 16, 2005

BILL AMENDED:

SUBJECT: Agriculture, Gaming, and Economic Development.

FIRST AUTHOR: Rep. Gutwein

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill appropriates \$25,000,000 to the Department of Agriculture to promote agriculture-based economic development, conservation, research, and education.

The bill provides a 3.5% credit against the property taxes imposed on qualified residential property.

The bill authorizes slot machines at racetracks. It requires a permit holder who offers slot machines to terminate the permit holder's satellite facility operations. It also requires 160 live racing days each year.

The bill imposes a State Wagering Tax of 32% of the adjusted gross receipts from slot machine wagering, and redirects certain Riverboat Admissions Taxes from the Horse Racing Commission to the state General Fund. It reduces the supplemental distribution paid to the Horse Racing Commission in state fiscal years ending before July 1, 2008, and eliminates the supplemental distribution after June 30, 2008. It also provides for the annual distribution of state Slot Machine Wagering Taxes.

The bill imposes a Local Wagering Tax of 4%, and provides for the distribution of the local taxes in Madison County and Shelby County.

The bill imposes a Horse Racing Promotion Fee of 15.25% of the adjusted gross receipts from slot machine wagering. It provides for the distribution of the fees to purses, breed development, and the associations representing owners, breeders, and trainers.

Effective Date: July 1, 2006; January 1, 2007.

Summary of Net State Impact: The potential net impact on the state General Fund and the Property Tax Replacement Fund due to this bill is summarized in the table below.

	FY 2008	FY 2009
General Fund		
Slot Machine Wagering Tax	\$21.3 M - \$28.0 M	\$64.7 - \$73.5 M
Riverboat Admission Tax Collections *	17.4 M	17.4 M
Supplemental PTRC	(23.1 M)	(70.8 M)
Net Increase (Decrease)	15.6 M - 22.3 M	11.3 M - 20.1 M
Property Tax Replacement Fund		
Riverboat Admission Tax Supplemental Funding **	9.8 M	9.8 M
Net Increase (Decrease) GF and PTRF	\$25.4 M - \$32.1 M	\$21.1 M - \$29.9 M
<p>* Riverboat Admission Tax collections currently distributed to the Indiana Horse Racing Commission (IHRC) for various horse racing purposes.</p> <p>** Amounts annually transferred from the PTRF to the IHRC for horse racing purposes to replace Riverboat Admission Tax shortages.</p>		

In addition to the impacts outlined in the table above, it is important to note that the bill requires payment of a one-time initial licensing fee by slot machine operators. The initial licensing fee is equal to \$40,000 per slot machine that a licensee places into service at the licensee's horse race track. The fee must be paid before September 1, 2006, with the revenue from the fee distributed to the state General Fund in FY 2007. The fee would generate \$40 M for each 1,000 slot machines placed into service. The bill authorizes up to 5,000 slot machines to be split between Hoosier Park and Indiana Downs. If 5,000 slot machines are placed into service, the fee would generate \$200 M. The bill also appropriates \$25 M from the initial licensing fee revenue to the state Department of Agriculture.

Explanation of State Expenditures: Supplemental PTRC: The bill provides for a Supplemental PTRC for certain residential property beginning with Pay 2008 property taxes. The credit applies to homesteads, rental property with fewer than four rental units, and non-homestead property that is occupied by the owner. The credit is equal to 3.5% of the property tax liability on qualifying funds, net of the Homestead Credit and the current PTRC. The cost of the credit is estimated at \$69.1 M in CY 2008 and \$74.0 M in CY 2009. The fiscal year cost is estimated at \$23.1 M in FY 2008 (partial year) and \$70.8 M in FY 2009. The bill distributes a maximum of \$100 M annually from the State Wagering Tax to fund the Supplemental PTRC. It is estimated that revenue from the Wagering Tax will be sufficient to provide \$21.3 M to \$28.0 M in funding for the credit in FY 2008 and \$64.7 M to \$73.5 M in funding for the credit each year thereafter. (Note: the potential annual growth in Wagering Tax revenue is indeterminable.) License fees exceeding \$25 M could potentially supplement the General Fund resources needed to cover the additional PTRC expenditures.

Department of Agriculture: The bill appropriates \$25 M to the state Department of Agriculture from initial slot machine licensing fees. The initial fee is \$40,000 per slot machine placed into service by a slot machine licensee (see *Explanation of State Revenues*). The money is to be used to promote agriculture-based economic

development, conservation, research, and education. The bill provides that the money does not revert to the state General Fund. A total of 625 slot machines would have to be placed into operation by slot machine licensees to fully fund this appropriation.

Indiana Gaming Commission (IGC): The bill requires the IGC to regulate and administer slot machine operations at Hoosier Park and Indiana Downs, including investigation and licensing of owners of the slot machine facilities and suppliers of slot machines. The IGC would incur additional administrative expenses as a result of these new responsibilities. However, the bill does not fund these costs. While the bill provides that licensees pay annual license fees and pay the cost of any investigation by the IGC relating to the licensee, the bill requires this money to be deposited in the state General Fund.

Penalties: The bill establishes a Class D felony for various types of violations at slot facilities. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$20,977 in FY 2005. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$62,292. The average length of stay in the Department of Correction's facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: Tax and Fee Provisions: The bill authorizes the operation of slot machines at Hoosier Park and Indiana Downs, provided the race track owner licensed to operate slot machines agrees to shut down all of the owner's OTBs. The bill limits the number of slot machines at each horse race track to 2,500. The bill imposes an initial licensing fee of \$40,000 per slot machine, a 32% state Slot Machine Wagering Tax, a 4% Local Slot Machine Wagering Tax, and a 15.25% Horse Racing Promotion Fee.

Initial Slot Machine Licensing Fee: The initial licensing fee is \$40,000 per slot machine that a licensee places into service. The bill requires the fee to be paid to the IGC before September 1, 2006. The fee would generate \$40 M for each 1,000 slot machines placed into service. The bill authorizes up to 5,000 slot machines to be split equally between Hoosier Park and Indiana Downs. If 5,000 slot machines are placed into service, the fee would generate \$200 M.

Slot Machine Wagering Tax: The bill imposes a state Slot Machine Wagering Tax equal to 32% of the adjusted gross receipts (total wagers minus winnings paid out) generated by slot machines at Hoosier Park and Indiana Downs. It is estimated that the tax could potentially generate about **\$48.5 M to \$55.2 M** in FY 2008 and about **\$64.7 M to \$73.5 M** annually thereafter. (Note: It is estimated that annual AGR from slot machines at Hoosier Park and Indiana Downs could potentially range from approximately \$202 M to \$230 M. The potential annual growth in this revenue is indeterminable.) Revenue from the tax is distributed to the State Racetrack Gaming Fund, created by the bill. Assuming a 12-15 month start-up period, it is estimated that no revenue from this tax will be generated in FY 2007; with about 9-12 months of revenue potentially being generated in FY 2008. Under the bill, once the IGC approves a slot machine licensee's plans for a permanent facility, it must allow the licensee to operate slot machines in a temporary facility for up to 18 months. As a result, the start-up period could be reduced to the extent that operations in a temporary facility are established. The distribution of revenue from the Slot Machine Wagering Tax is summarized in the table below.

Purpose	FY 2008	FY 2009
Riverboat Admission Tax Replacement	\$27.2 M	\$0
Supplemental PTRC	21.3 M - 28.0 M	64.7 M - 73.5 M
Local Revenue Sharing	0	0
Total	\$48.5 M - 55.2 M	\$64.7 M - 73.5 M

Until the end of FY 2008, the first \$27.2 M annually from the Slot Machine Wagering Tax is distributed to the Indiana Horse Racing Commission (IHRC) for horse racing purposes. The next \$100 M annually is distributed to the state General Fund to be spent on the Supplemental PTRC established by the bill, with the remainder distributed to local revenue sharing. Beginning in FY 2009, no distribution is to be made to the IHRC. Under local revenue sharing, each county not containing a riverboat casino or a horse racing track that operates slot machines will annually receive an equal share of the money available for revenue sharing up to \$500,000. For each county receiving revenue sharing money, the amount received is to be divided on a per capita basis between the county and the cities and towns within the county.

Horse Racing Promotion Fee: The bill imposes a Horse Racing Promotion Fee equal to 15.25% of slot machine adjusted gross receipts. It is estimated that the fee could potentially generate about **\$23.1 M to \$26.3 M** in FY 2008, and **\$30.8 M to \$35.1 M** annually thereafter. (The FY 2008 total assumes 9 months of revenue.) The Horse Racing Promotion Fee revenue is distributed as follows: 1.5% for equine welfare; 1.5% for backside benevolence; with 70% of the remainder distributed to thoroughbred, standardbred, and quarter horse purses and horsemen's associations and 30% of the remainder distributed to breed development funds.

Existing Riverboat Admission Tax to Horse Racing: Until the end of FY 2008, the bill distributes \$27.2 M from the state Slot Machine Wagering Tax to replace (1) Riverboat Admission Tax collections and (2) the annual supplemental payment from PTRF for replacement of Admission Tax shortages currently funding horse racing programs. Beginning in FY 2009, the Slot Machine Wagering Tax is no longer utilized to replace the Riverboat subsidy to horse racing. The bill redirects actual Riverboat Admission Tax collections otherwise earmarked for the horse racing subsidy to the state General Fund, and discontinues the supplemental Admission Tax payments from the PTRF. Under current statute, \$0.65 per \$3.00 Admission Tax paid is distributed to the IHRC for purses, horsemen's associations, breed development, and the race track subsidy. This annual distribution is guaranteed at \$27.2 M, with the supplemental payment from PTRF making up the difference between the guarantee amount and actual Admission Tax collections. The supplemental payment is made in the fiscal year following the fiscal year of the shortage. In FY 2005 approximately \$17.4 M in Admission Tax collections was distributed to the IHRC. Thus, the supplemental payment from PTRF for the FY 2005 shortage totaled approximately \$9.8 M.

Existing Parimutuel Revenue: The bill requires a pari-mutuel permit holder to terminate all OTB operations in order to qualify for a slot machine operator's license. The OTB shutdown must occur prior to January 1, 2008. This would affect several existing revenue sources:

(1) The Parimutuel Wagering Tax is 2% of amounts wagered on live and simulcast racing at horse race tracks, and 2.5% of amounts wagered at OTBs. FY 2005 collections totaled about \$4.6 M, with about \$3.3 M attributable to wagering at OTBs. The first \$150,000 in revenue from this tax annually is distributed to the Veterinary School Research Account, with the remainder distributed to the Build Indiana Fund.

(2) The Parimutuel Satellite Facility Tax is 0.5% of amounts wagered at OTBs. FY 2005 collections totaled \$675,622. This revenue is split equally between the Livestock Industry Promotion and Development Fund and the State Fair Commission.

(3) Breakage/Outs Tickets: Proceeds from breakage (remaining odd cents from rounding down to the nearest ten cents on winning tickets) and outs tickets (uncashed winning tickets) from wagers on live and simulcast races is distributed to the breed development funds. FY 2005 revenue totaled about \$1.9 M. The amount derived from OTBs, however, is currently indeterminable.

(4) The annual renewal fee for an OTB permit is \$1,000. FY 2005 revenue totaled \$5,000 for five OTB permits.

License Fees: The bill provides for a slot machine operator license and a slot machine supplier's license. The initial slot machine operator's license would be effective for five years, with annual renewal thereafter. The annual renewal fee would be \$5,000. The annual fee for a supplier's license would be \$5,000. The bill requires a person to obtain a supplier's license to furnish slot machines to the horse race tracks. The bill also requires licensees to reimburse the IGC for the cost of any investigation of the licensee. The bill distributes the license fee revenue and investigation cost reimbursement money to the state General Fund.

Fiscal Impact Details: The fiscal impact is based on a range of estimates of potential patrons at slot machine facilities located at Hoosier Park and Indiana Downs. The patron estimates are based on adult population totals from counties not exceeding 120 miles from the two locations. Counties in this group that are closer to casinos in Indiana, Illinois, or Michigan are excluded. Participation and annual visitation rates of casino patrons are based on industry survey information. The estimate also assumes that the AGR per patron visit is between \$74 and \$75. It is important to note that the fiscal estimates are not adjusted to account for the potential displacement of Riverboat Admission Tax and Wagering Tax revenue by slot machine wagering at Hoosier Park and Indiana Downs. These potential competitive impacts on the fiscal outcomes are indeterminable.

Penalties: The bill makes it a Class A misdemeanor for a person to knowingly or intentionally aid, induce, or cause a person less than 21 years of age and who is not an employee of a slot machine facility to enter or attempt to enter the facility. It also makes it a Class A misdemeanor for a person who is less than 21 years of age and who is not an employee of a slot machine facility to knowingly or intentionally enter or attempt to enter the facility. The bill also establishes a Class D felony for various types of cheating at slot facilities. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: *Penalties:* A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44. If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: *Local Wagering Tax:* The bill imposes a Local Slot Machine Wagering Tax equal to 4% of adjusted gross receipts generated by slot machines at Hoosier Park and Indiana Downs. Tax

revenue from Hoosier Park is to be distributed to Madison County, with the tax revenue from Indiana Downs distributed to Shelby County. Revenue from the tax in state fiscal year 2008 could potentially total **\$3.6 M to \$4.1 M** for Madison County and **\$2.4 M to \$2.8 M** for Shelby County. Annually thereafter, revenue from the tax could potentially total **\$4.9 M to \$ 5.5 M** for Madison County and **\$3.2 M to \$3.7 M** for Shelby County. (Note: The state fiscal year 2008 estimate assumes 9 months of revenue. The potential annual growth in this revenue is indeterminable.) The money received by each county is to be divided on a per capita basis between the county, and cities and towns within the county.

Supplemental PTRC: The bill provides for a Supplemental PTRC for certain residential property beginning with Pay 2008 property taxes. The credit applies to homesteads, rental property with fewer than four rental units, and non-homestead property that is occupied by the owner. The credit is equal to 3.5% of the property tax liability on qualifying funds, net of the Homestead Credit and the current PTRC. If the state pays 100% of the credit, total local property tax revenues will be unchanged.

Penalties: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Indiana Gaming Commission; Indiana Horse Racing Commission; Department of State Revenue; Department of Correction; Department of Agriculture.

Local Agencies Affected: Shelby County; Madison County; Cities and towns in both counties; Trial courts, local law enforcement agencies; All local units.

Information Sources: Indiana Sheriffs' Association; Department of Correction; Indiana Gaming Commission, *FY 2005 Annual Report*; Harrah's Entertainment, Inc. *Harrah's Survey 2004: Profile of the American Casino Gambler*.

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